



State of West Virginia
Office of the Attorney General
State Capitol
Building 1, Room 26-E
Charleston, WV 25305-0220

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0140

August 24, 2016

West Virginia Superintendent of Schools
West Virginia Department of Education
All County Boards of Education

Re: Federal Guidance Letter on Transgender Students

Dear Superintendent of Schools, Members of the West Virginia Department of Education, and Members of County Boards of Education:

I write to update you on two significant developments concerning the President's unlawful attempt, announced in a "guidance letter," to threaten the federal funding of schools that decline to admit students of one sex to the bathrooms, locker rooms, dormitories, or sports teams of the other sex. Two recent court decisions reaffirm my original advice to you in May that no school is under any legal obligation to obey this federal mandate.

First, this week, a federal district court in Texas entered a nationwide preliminary injunction ordering the federal government not to enforce its position against the schools of our state or any other state. As you may know, the State of West Virginia and several other states brought this suit in late May, challenging the President's unlawful attempt to intimidate our schools into implementing his policy views. The federal district court agreed with our view that the President's guidance letter is both procedurally and substantively unlawful, and the court ordered the federal government not to attempt to revoke any of our federal funding while our lawsuit proceeds.

Second, in early August, the Supreme Court of the United States stayed the decision of the U.S. Court of Appeals for the Fourth Circuit in the case of *G.G. v. Gloucester County School Board*, a ruling that had mandated restroom access for one student in one Virginia school district. The decision by the Richmond-based Fourth Circuit pre-dates the much broader federal "guidance letter" that has been issued nationwide and to our schools, and thus did not concern or

West Virginia Superintendent of Schools
West Virginia Department of Education
All County Boards of Education
August 24, 2016
Page 2

address the legality of that letter. Nevertheless, the Supreme Court putting this decision on hold reflects the importance of staying the course while litigation is ongoing. The Supreme Court's stay means that the Fourth Circuit's earlier ruling has no effect in Virginia, West Virginia, or any other state at this time.

As your Attorney General, I am committed to fighting the President's unlawful overreach and to defending our schools' authority over their own policies. My Office will continue to push for a permanent victory against the federal government's guidance letter, and to lead the States in supporting Supreme Court review in *G.G. v. Gloucester County School Board*.

In the meantime, please do not hesitate to contact my Office should any person attempt to enforce the President's "guidance letter" on any school in the State of West Virginia.

Sincerely,



Patrick Morrisey
West Virginia Attorney General

cc:

Governor of the State of West Virginia
President of the West Virginia Senate
Speaker of the West Virginia House of Delegates